

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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	:	Civil No. 06-278(KSH)
Dennis Lee,	:	
	:	
Plaintiff,	:	
	:	
v.	:	<u>O R D E R</u>
	:	
	:	
Eric Krieg, et al.	:	
	:	
Defendant.	:	

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The Honorable Patty Shwartz, United States Magistrate Judge, entered an Order directing that plaintiff show cause on June 5, 2006 why he should be permitted to pursue this case, which embodies claims that have been dismissed in another case he filed, and directing further that he provide the legal authority that would permit him to do so. Plaintiff responded to the Order to Show Cause by filing a memorandum of law on June 16, 2006. Judge Shwartz submitted a Report and Recommendation on June 22, 2006, pursuant to 28 U.S.C. § 636(b)(1)(B), recommending that plaintiff's complaint be dismissed with prejudice and without costs.

The Court having reviewed de novo the Report and Recommendation of Magistrate Judge Shwartz; and the Court having reviewed plaintiff's objections to the Report and Recommendation filed on July 5, 2006; and the Court noting that plaintiff's

objections are without legal merit<sup>1</sup>; and good cause appearing for this Court to adopt in full the Report and Recommendation of Judge Shwartz,

It is on this 21<sup>st</sup> day of August, 2006,

**ORDERED**, that the Report and Recommendation of Magistrate Judge Shwartz is adopted as the opinion of the Court; and it is further

**ORDERED**, that plaintiff's complaint shall be dismissed with prejudice and without costs.

**SO ORDERED.**

/s/ Katharine S. Hayden

KATHARINE S. HAYDEN, U.S.D.J.

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<sup>1</sup>Plaintiff raises three grounds. The first addresses the doctrine of *res judicata*, which is inapplicable because the focus here is not on judicial action or inaction in the context of finality. Rather, the focus is on the action of the plaintiff in filing a new lawsuit rather than moving to re-open his prior lawsuit within the time provided therein. The next argument minimizes Judge Shwartz's analysis by suggesting it is based on semantics, and calls upon this Court to do "substantial justice," again not dealing with the issues Judge Shwartz addressed and the reasons for her recommendation of dismissal. The final ground argues burden of proof in the context of claim preclusion, and characterizes Judge Shwartz as an advocate for the defendant. None of these arguments has legal merit.